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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------|-------------|----------------------|---------------------|------------------|
| 10/615,572 | 07/08/2003 | Robert R. Hunter | 375283-00102 | 8982 |
| 37509 | 7590 | 04/06/2005 | | EXAMINER |
| DECHERT LLP | | | | TSAI, CAROL S W |
| P.O. BOX 10004 | | | | |
| PALO ALTO, CA 94303 | | | | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2857 | |

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------|-------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/615,572 | HUNTER, ROBERT R. | |
| | Examiner Carol S. Tsai | Art Unit 2857 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 January 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-59 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 July 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 193/03, 1/19/05, and 3/10/05
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

2. This application contains claims 60-68 drawn to an invention nonelected without traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-59 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 4,804,957 to Selph et al.

With respect to claims 1, 5, 7, 11, 12, 28, 32-35, 50, and 53, Selph et al. disclose a system for monitoring and controlling utility-based consumption comprising: a reader (meter interface unit 36 shown on Fig. 2) for obtaining utility consumption data from a utility meter (utility meter 20 shown on Fig. 2); and a computer system (data collection computer 312 shown on Fig. 10) for collecting the data from the reader (see col. 15, lines 4-10) wherein the computer system computes a forecast of consumption for one or more predetermined periods of time and wherein

the computer system signals for the control of consumption through the controlling of one or more devices that consume utility-based product based on the forecast (see col. 3, line 12 to col. 4, line 18 and col. 12, line 17 to col. 13, line 4).

As to claims 2-4 and 29-31, Selph et al. also disclose the data being electric power consumption data/natural gas consumption data/water consumption data (see col. 5, lines 40-43).

As to claims 6 and 52, Selph et al. also disclose the computer system repeatedly computes the forecast (see col. 9, lines 61-67).

As to claim 8, Selph et al. also disclose the computer system signaling for the control of one or more of the devices through the decreasing of the amount of time that one or more one of the devices run (see col. 12, lines 45-56).

As to claims 9 and 10, Selph et al. also disclose a climate control device being an air conditioning unit (see col. 2, lines 11-14).

As to claims 13-17, 26, 36-40, 47, 54, and 59, Selph et al. also disclose a user interface at the computer system wherein the user interface displays indicia related to consumption to the user (see Fig. 3; col. 2, line 59 to col. 3, line 11; col. 7, lines 1-10; and col. 9, lines 31-37).

As to claims 18, 19, 21, 42, 43, and 55, Selph et al. also disclose accessing the user interface from a location remote from the computer system for providing the user input (see col. 5, lined 22-39).

As to claims 20, 22-24, 41, 44, 45, 56, and 57, Selph et al. also disclose sending the alerts to the computer system to reduce consumption during a crisis situation (see col. 1, line 63 to col. 2, line 2; col. 3, line 35 to col. 4, line 18; and col. 13, lines 32-50).

As to claim 25, 46, 48, 49, and 58, Selph et al. also disclose instructing the

computer system to adjust the consumption of one or more devices (see col. 8, lines 3-44).

As to claims 27, Selph et al. also disclose multiple readers for reading utility consumption data from multiple meters and wherein the computer computes the forecast based on the data from multiple ones of the readers (see col. 13, lines 5-31).

As to claim 51, Selph et al. also disclose the computer system being located at the utility company (see col. 6, lines 14-41).

Response to Arguments

5. Applicant's arguments filed January 19, 2005 have been fully considered but they are not persuasive.

Applicant argues that Selph et al. do not suggest or disclose computing a forecast of consumption, or signaling for the control of consumption through the controlling of one or more devices that consume utility-based product based on the forecast. The Examiner disagrees with Applicant. The examiner interprets the claimed language differently from Applicant. Since “The real-time and combined historic data can be used to forecast whether usage will fall above or below a usage level during a given period of time. In response to a forecast exceeding said level, the computer may display the appropriate graph in a red colored bar within a quantity vs. time chart and may send appropriate notifications” as described at Abstract, lines 6-10 clearly indicates what is meant by “computing a forecast of consumption, or signaling for the control of consumption through the controlling of one or more devices that consume utility-based product based on the forecast”. Therefore, as set forth above in the art rejection, Selph et al. do disclose computing a forecast of consumption, or signaling for the control of consumption through the

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controlling of one or more devices that consume utility-based product based on the forecast (see col. 3, line 12 to col. 4, line 18 and col. 12, line 17 to col. 13, line 4; a control means for causing the processor to monitor the digital information as it is received or at periodic intervals and to provide an alarm event indication in response to a predetermined fault condition. For example, the processor can be programmed to respond to an interruption in utility service or a degradation in utility service by storing a record of the event and the time at which the event occurred in memory. The memory may be accessed remotely through the communication means to get details of the alarm event even after it has occurred; The tamper detection device transmits a tamper alert signal which the processor can output through the communication means to the home office or monitoring substation. To provide further protection against meter malfunction due to processor lockup, a watchdog circuit is coupled to the processor and provides a reset signal in response to processor inactivity for a predetermined length of time. If the processor becomes inactive or locks up due to tampering or spurious power line signals, the watchdog circuit detects this condition and restarts the processor's control routine).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol S. W. Tsai whose telephone number is (571) 272-2224. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax number for TC 2800 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2800 receptionist whose telephone number is (571) 272-1585 or (571) 272-2800.

In order to reduce pendency and avoid potential delays, Group 2800 is encouraging FAXing of responses to Office actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the

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examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2800 will be promptly forwarded to the examiner.

Carol S. W. Tsai

Carol S. W. Tsai
Primary Examiner
Art Unit 2857

03/25/05